

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

CHARMANE D. GOINS,

Petitioner,

v.

WARDEN DEBORAH A. HICKEY,

Respondent.

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No. 1:07-CV-286
Chief Judge Curtis L. Collier

MEMORANDUM

This is a petition for the writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 by Charmane D. Goins (“Petitioner”) (Court File # 1). Petitioner is confined at FCI-JESUP in Jesup, Georgia. Because Petitioner filed this petition without payment of the \$5.00 filing fee or a motion to proceed *in forma pauperis*, the Court directed Petitioner to either pay the \$5.00 filing fee or submit an *in forma pauperis* application (Court File # 4).

This matter is before the Court on Petitioner’s letter, which the Court construes as a motion to dismiss (Court File # 5). Petitioner asserts the § 2241 petition which was only sent to the Court as a courtesy copy of the case she had filed in the Southern District of Georgia, was inadvertently filed and docketed in this Court (Court File # 5).¹ Thus, Petitioner is requesting the Court to dismiss her pending § 2241 petition.

Rule 41 of the Federal Rules of Civil Procedure provides for the voluntary dismissal of

¹ A review of the court file reflects that the § 2241 petition was sent along with a letter (which was not docketed separate from the petition) asking the Court if it would be willing to express whether it would have ordered concurrent service of the ten month sentence the Court imposed for violation of 18 U.S.C. § 2113 with the state sentence, had the state sentence existed at the time this Court imposed the ten month sentence (Court File # 1). The Court declines Petitioner’s invitation to address this issue.

actions by a plaintiff upon filing a notice of dismissal at any time prior to service by the adverse party of an answer or of a motion for summary judgment. Fed.R.Civ.P. 41(a)(1). Rule 41 also provides for the voluntary dismissal by a plaintiff upon order of the Court. Fed.R.Civ.P. 41(a)(2). Respondent has not been served as Petitioner has not paid the \$5.00 filing fee or submitted proper documentation requesting to proceed *in forma pauperis*. Additionally, Petitioner's § 2241 action challenging the manner in which her sentence is executed must be brought in the district court having jurisdiction over "the person having custody of the person detained," 28 U.S.C. § 2243, which, in this instance, is not this District Court. For the foregoing reasons, the motion to dismiss will be **GRANTED** (Court File No. 5). *See* Rule 41(a)(1) and (2).

Accordingly, this action will be **DISMISSED WITHOUT PREJUDICE**. The Clerk will be **DIRECTED** to send a copy of this order to the parties and to close this file.

An appropriate judgment will enter.

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE